

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

OTIS MICHAEL THOMAS,

Plaintiff,

v.

L. JOHNSON, et al.,

Defendants.

No. 2:21-cv-1657 WBS CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with a claim arising under the Eighth Amendment against California Department of Corrections and Rehabilitation employee J. Oseguera. Defendant Oseguera has filed a motion asking that plaintiff be compelled to provide further responses to request for production no. 1. Defendant also asks that his requests for admission be deemed admitted or that plaintiff be required to provide further responses to the requests.

1. Request for Production No. 1

Defendant's request to produce no. 1 is as follows:

Produce a copy of all declarations or affidavits, signed or unsigned, prepared by you or any other person relating to your allegations in your Third Amended Complaint (ECF No. 23).

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1 Plaintiff responded as follows:

2 Plaintiff objects to this because the witness is in the (investigative  
3 report inside of the lawsuit: in her name is (M. Lucatero).

4 As the defendant's request appears reasonable and plaintiff's response does not make  
5 sense, plaintiff will be ordered to provide a further response along with any responsive documents  
6 within 30 days.

7 2. Requests For Admissions

8 Defendant served requests for admission upon plaintiff pursuant to Rule 36 of the Federal  
9 Rules of Civil Procedure and plaintiff responded. Rule 36(a)(4) provides as follows as to the  
10 contents of a response:

11 If a matter is not admitted, the answer must specifically deny it or  
12 state in detail why the answering party cannot truthfully admit or  
13 deny it. A denial must fairly respond to the substance of the matter;  
14 and when good faith requires that a party qualify an answer or deny  
15 only a part of a matter, the answer must specify the part admitted and  
16 qualify or deny the rest. The answering party may assert lack of  
knowledge or information as a reason for failing to admit or deny  
only if the party states that it has made reasonable inquiry and that  
the information it knows or can readily obtain is insufficient to enable  
it to admit or deny.

17 The court has reviewed plaintiff's responses to defendant's requests for admission.  
18 Plaintiff does not specifically "admit" or "deny" any of the requests. However, with respect to  
19 some of the requests, the court finds admission upon the response provided. Specifically,  
20 requests 5, 13, 15, 16 and 17 are deemed admitted. With respect to the remainder of the requests  
21 for admission, plaintiff's responses do not satisfy Rule 36. Accordingly, plaintiff will be ordered  
22 to serve further responses to requests for admission 1-4, 6-12, 14 and 18 within 30 days. Plaintiff  
23 must expressly admit, deny, or indicate he cannot truthfully admit or deny each request. To the  
24 extent explanation of a response is necessary, plaintiff should respond only to the language used  
25 in that specific request.

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Accordingly, IT IS HEREBY ORDERED that:

1. Defendant Oseguera's motion to compel (ECF No. 44) is GRANTED.

2. Requests for admission 5, 13, 15, 16 and 17 are deemed admitted.

3. Within 30 days, plaintiff shall:

A. Serve a further response to defendant's request for production no. 1 along with any responsive documents in plaintiff's possession or control; and

B. Serve further responses to defendant's requests for admission 1-4, 6-12, 14 and 18 that comply with the terms of this order and Federal Rule of Civil Procedure 36.

4. Plaintiff's failure to comply with this order will result in sanctions which could include dismissal of this action.

5. Any further motion to compel concerning defendant's request for production number 1 or defendant's requests for admission 1-4, 6-12, 14 and 18 shall be filed within 60 days. If no motion is filed, the court will reset the deadline for filing pretrial motions.

Dated: June 12, 2025



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE